

United States Courts
Southern District of Texas
FILED

A091 (Rev. 8/01) Criminal Complaint

AUG 02 2007

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

Michael N. Milby, Clerk of Court

UNITED STATES OF AMERICA

V.

Daniel SILVA

CRIMINAL COMPLAINT

Case Number: C-07-448m

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about August 1, 2007 in Brooks County, in the
(Date)

Southern District of Texas defendant, Daniel SILVA

did knowingly or in reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

in violation of Title 8 United States Code, Section(s) 1324.
I further state that I am a(n) Special Agent and that this complaint is based on the
following facts:
Official Title

See Attached Affidavit of ICE Special Agent **Stephen B. Guillot, II**

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No


Signature of Complainant

Stephen B. Guillot, II

Printed Name of Complainant

Sworn to before me and signed in my presence,

August 2, 2007

Date


at

Corpus Christi, Texas

City and State

Brian L. Owsley U.S. Magistrate Judge

Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

On August 1, 2007, at approximately 0005 hours, Border Patrol Agent Mark Ednie of the Falfurrias, Texas, Border Patrol checkpoint observed a black Kenworth tractor displaying Texas license plate R8K-L59 approach the primary inspection lane. Agent Ednie conducted an immigration inspection on the driver, identified as Daniel SILVA, and determined SILVA was a United States citizen. Border Patrol Agent Jorge Gamez utilized service canine "Case" to conduct a free-air sniff of the tractor and trailer during the immigration inspection. Agent Gamez indicated to Agent Ednie the trailer needed to be searched in the secondary inspection lane. Agent Ednie asked for and was granted consent by SILVA to search the trailer.

Agent Ednie observed SILVA was pacing nervously in the secondary inspection area. SILVA stated to Agent Ednie he had picked up the trailer in Brownsville, Texas, and if anything was found inside, SILVA didn't know anything about it. Agent Gamez again utilized the service canine to conduct a free-air sniff of the trailer, and the service canine alerted to the rear of the trailer. Agent Eric Rubio asked SILVA for consent to break the seal on the trailer, and SILVA stated if anything was found inside, the trailer was sealed when SILVA picked it up. Agent Rubio attempted to break the seal and observed the seal was already broken. Agents Rubio and Gamez opened the doors of the trailer and observed the trailer was very hot inside. Agents Rubio and Gamez discovered several individuals lying down on top of the cargo. Agents Rubio and Gamez carried two female individuals and one male individual from the trailer who were too weak to exit the trailer. These individuals were given water by the Border Patrol agents and an ambulance transported the individuals to receive treatment. Twenty individuals were discovered in the trailer. Seventeen of the individuals were citizens and nationals of China illegally present in the United States, and three of the individuals were citizens and nationals of Costa Rica illegally present in the United States.

Daniel SILVA was advised of his Miranda rights and voluntarily provided a written statement. SILVA stated he picked up the load in Brownsville, Texas, at a warehouse where another person loaded and sealed the trailer. SILVA stated he then drove to Alamo, Texas, to visit family and take a nap. SILVA then drove north until he was stopped at the checkpoint. Border Patrol Agent Enrique Torres interviewed SILVA. SILVA stated he delivered a load of oil drums to a location in Brownsville, Texas. SILVA stated he then drove to a warehouse to have the trailer loaded with pallets of punching bags. SILVA claimed he was not in the warehouse to see the trailer being loaded because the warehouseman would not allow it. SILVA stated he signed the bill of lading. SILVA stated he saw the warehouseman place a metal seal on the trailer. SILVA further stated he drove to his sister's residence in Alamo, Texas, at approximately 1300 hours and parked the

tractor-trailer in front of the residence. The residence is in a residential area. SILVA remained at the residence until approximately 1900 hours. SILVA then ate dinner with his brother and sister and returned to the residence to take a nap. SILVA stated he drove to the Flying J truck stop to use the restroom and stayed for thirty minutes prior to driving north to the checkpoint. SILVA indicated he physically inspected the tractor-trailer prior to leaving his residence. An individual named Jose Garza signed the bill of lading. SILVA stated he used his boss's name when he signed the bill of lading.

The seal removed from the trailer at the checkpoint was numbered 634658. The seal number indicated on the bill of lading was numbered 2865634. Immigration and Customs Enforcement Special Agent Steve Guillot interviewed Juan Hernandez of TKO Sports Group USA, Ltd., via telephone on August 1, 2007. Hernandez indicated he loaded the trailer and placed the seal on the trailer doors. Hernandez stated he checked the seal number on the door and on the bill of lading to ensure the numbers are the same.

Material witnesses Martin ARAYA-Robles and Deiver SANCHEZ-Garro, citizens and nationals of Costa Rica illegally present in the United States, were advised of their Miranda rights and voluntarily stated they entered the United States on July 31, 2007, by crossing the Rio Grande River with the help of an unknown smuggler. ARAYA and SANCHEZ stated they were taken to a warehouse after entering the United States. ARAYA and SANCHEZ were then picked up by a van and taken to a location where they boarded a trailer. ARAYA and SANCHEZ remained in the trailer until it arrived at the checkpoint.

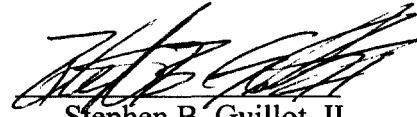
Material witnesses Qing CHEN, Li CHEN, and Lin QIU, citizens and nationals of China illegally present in the United States, were the individuals transported to the hospital to receive treatment. These individuals were released by the hospital to the U. S. Border Patrol and were medically cleared for travel. These material witnesses were detained to testify to the conditions in the trailer that led to their having to receive treatment.

A further inspection of the trailer by Agent Ednie revealed scratch marks on the ceiling of the trailer indicative of the individuals in the trailer attempting to get more air in the trailer.

The twenty undocumented immigrants from the trailer were interviewed and presented a photo lineup containing a photograph of the driver. The undocumented immigrants were unable to identify the driver from the photo lineup.

Criminal history and immigration record checks conducted revealed SILVA was arrested at the Falfurrias, Texas, Border Patrol checkpoint on October

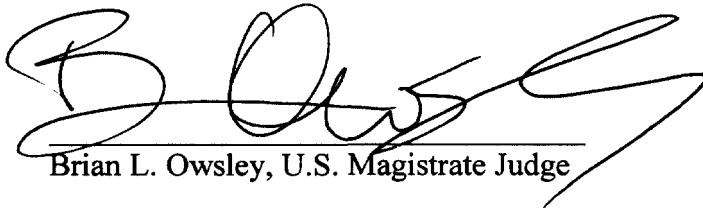
20, 2006, with four undocumented aliens in the air dam of SILVA's tractor trailer. An administrative case was prepared against SILVA.



Stephen B. Guillot, II
Special Agent

U.S. Immigration and Customs Enforcement

SUBSCRIBED AND SWORN TO
BEFORE ME this 2nd Day
Of August, 2007.



Brian L. Owsley, U.S. Magistrate Judge